

MIGRATORY WORKERS

*Exchange of notes at México February 20 and 21, 1948, with text
of agreement signed February 17, 1948
Entered into force February 21, 1948
Terminated October 18, 1948*¹

62 Stat. 3887; Treaties and Other
International Acts Series 1968

*The American Chargé d'Affaires ad interim to the Secretary of Foreign
Affairs*

No. 1776

MEXICO, D.F., February 20, 1948

EXCELLENCY:

I have the honor to refer to conversations which have recently been held in El Paso, Texas, and in Mexico City between representatives of the United States of America and the United Mexican States with the object of arriving at a mutual and satisfactory agreement for the further recruiting of Mexican agricultural workers for the United States, and to the results of these conversations by which an agreement was signed between the said representatives on February 17, 1948. The text of the agreement is as follows:

"MIGRATION OF MEXICAN AGRICULTURAL WORKERS

"In view of the termination on December 31, 1947, of the joint administration of the Agreement of April 26, 1943,² under which Mexican agricultural workers temporarily migrated to the United States to cooperate in agricultural production in that country, and in view of the continued need for additional agricultural workers in certain regions of the United States, the Embassy of the United States in Mexico City, in a note to the Mexican Foreign Office dated November 10, 1947, proposed conversations between representatives of the two Governments to formulate recommendations as to conditions and terms to govern future employment of Mexican agricultural workers in the United States. The Mexican Government expressed agreement to the proposed discussions and named the following delegation:

¹ Pursuant to notice of termination given by Mexico Oct. 18, 1948.

² EAS 351, *ante*, p. 1129.

"AS DELEGATES: Alfonso Guerra, Executive Officer of the Department of Foreign Affairs; Lic. Horacio Teran, Executive Officer of the Department of the Interior; Colonel Raul Michel, Consul General of Mexico at El Paso, Texas; and Lic. Celso Ledesma Labastida, Chief Counselor, Department of Labor and Social Welfare.

"AS ADVISERS: Arcadio Ojeda García, Chief of Immigration Service, Department of the Interior; Lic. Guillermo García Maynez, Counselor of the Labor Department; Roberto S. Urrea, Consul of Mexico at El Paso, Texas; Alberto Monroy, Chief of the Interdepartmental Office, Ciudad Juárez, Chihuahua; José Reyes Nava, Chief of the Interdepartmental Office at Reynosa, Tamaulipas, Mexico; Joaquin Terrazas, Chief of the Interdepartmental Office, Mexicali, Baja California; and Daniel Chavez, Vice-consul of Mexico at El Paso, Texas.

"The United States Government at the same time designated the following delegation:

"AS DELEGATES: William G. MacLean, Economic Adviser, Division of Mexican Affairs, Department of State; Watson B. Miller, Commissioner of Immigration and Naturalization; and Willard F. Kelly, Assistant Commissioner of Immigration and Naturalization, of the Department of Justice; and Walter Erb, Acting Assistant Director for Farm Placement, United States Employment Service, Department of Labor.

"AS ADVISERS: Albert D. Misler, Chief Attorney, Department of Labor; William A. Whalen, District Director, United States Immigration and Naturalization Service, San Antonio, Texas; Grover C. Wilmoth, District Director, United States Immigration and Naturalization Service, El Paso, Texas; William A. Carmichael, District Director, United States Immigration and Naturalization Service, Los Angeles, California; Robert H. Robinson, Examiner, United States Immigration and Naturalization Service; Stephen E. Aguirre, Consul of the United States of America, Ciudad Juárez, Chihuahua, Mexico; and G. Wallace La Rue, Consul of the United States of America, Ciudad Juárez, Chihuahua, Mexico.

"The two delegations having met in joint session in the City of El Paso, Texas, from November 20, 1947, to December 2, 1947, followed by a further meeting in Mexico on February 9-11, 1948, between Mr. Maurice L. Stafford, First Secretary of the Embassy of the United States, and Dr. Alfonso Guerra, Oficial Mayor of the Ministry for Foreign Relations of the United Mexican States, and after full reconsideration of every prospect of the problem adopt the following resolutions as recommendations to their respective Governments with the understanding that they are to be made effective between the two Governments, if approved, by an exchange of notes through diplomatic channels, both delegations being in accord in recommending to their respective Governments that from the date of said notes, all future

contracting of Mexican agricultural workers for employment in the United States, as well as the recontracting of those Mexican workers actually in the United States, should be governed by the terms of this Agreement.

"1. The contracts, whether renewals or new, will be on a direct worker to employer basis, with intervention by the two Governments, which shall oversee their observance in the form specified in this document. It is mutually understood that the term "employer" refers to the owner or operator of an agricultural property in the United States or to an association of such, and that the term "worker" refers to a Mexican national who is an agricultural worker.

"2. The form of contract which should be used accompanies this agreement,⁸ with the understanding that if it is considered necessary to make fundamental changes therein, such changes shall be the subject of consultation and agreement between the two Governments through diplomatic channels.

"3. Employers in the United States will be permitted to contract Mexican agricultural workers under this agreement for employment in a previously specified area. The appropriate authorities of the United States will inform those of Mexico three months in advance of the number of workers which may be required for the following period, and the Government of Mexico will make available the maximum number compatible with the labor needs of the Republic of Mexico. Said employers must (a) have certification by the United States Employment Service of the United States Department of Labor that workers are needed in that specified area, and that domestic workers are not available at prevailing wages in that area, and (b) be in possession of written authorization from the Immigration and Naturalization Service of the United States to bring in a specified number of such workers.

"A copy of the certification mentioned in section (a) above shall be forwarded directly to the Mexican Ministry of Labor by the United States Employment Service. In order that the workers may have previous knowledge of the nature of the employment offered, the employer will furnish them complete information at the contracting centers, with the assistance of the Mexican authorities, in regard to name and address of employer, climate in the place of employment; salaries, and all other pertinent data.

"4. The authorizations specified in section (b) of the preceding paragraph should be granted only to those employers who post a bond or other satisfactory collateral with the Immigration and Naturalization Service sufficiently large to guarantee the return of the worker to his place of contract in Mexico without cost to him.

"5. Mexican workers entering the United States under the terms of this agreement shall not be obligated to engage in any military service.

⁸ Not printed here.

"6. In accordance with Executive Order No. 9346, issued by the President of the United States on May 27, 1943,⁴ Mexican workers in the United States under this agreement shall not suffer discriminatory acts of any kind. For the purposes of this article the appropriate agencies of both Governments shall cooperate.

"7. Mexicans entering the United States under this agreement shall not be employed to displace other workers, or for the purpose of reducing rates of pay previously established.

"8. Contracts will be made between the employer and the worker under the supervision of a representative of each of the two Governments, and they must be written in Spanish and in English. The places of contract in the Republic of Mexico shall be freely determined by the Government of Mexico and advice thereof given to the American Government within three months from the time of notification of the number of workers needed by means of an exchange of diplomatic notes between the two Governments. It is understood that they shall not be south of a line from coast to coast through Guadalajara and Querétaro.

"The transportation of the worker from the place of contract to the place of employment and return to place of contract in Mexico, as well as food, lodging, and other expenses en route, including up to 35 kilograms of personal objects but not including furniture, shall be at the expense of the employer.

"9. Mexican health authorities at the place of contracting will see that the worker meets the necessary physical conditions, and officials of the United States Public Health Service will cooperate in this examination and at the same time will make the examinations required as a condition of entrance into the United States, without waiving in the latter case the right to further examination at the border, in which case workers who fail to pass this second examination shall be given transportation back to the place of contract.

"10. All transportation and living expenses from the place of contract to the place of employment and return, as well as any expenses incurred in the fulfillment of any requirements of a migratory nature, shall be met by the employer.

"11. Wages to be paid the worker shall be the same as those paid for similar work to domestic agricultural workers under the same conditions within the same area, in the respective areas of employment. Piece rates shall be so set as to enable the worker of average ability to earn the prevailing wage. In any case the worker shall not be paid less than he would earn at the hourly rate set forth in the Individual Work Agreement, which shall be fixed taking into consideration the cost of living in the United States at the time of contracting. Where higher wages are paid for specialized tasks such as the operation of vehicles or machinery, Mexican workers shall be entitled to such wages while assigned to such tasks.

⁴ 8 Fed. Reg. 7183.

"12. The worker shall not be transferred from the place of employment to another locality without the express approval of the worker and the Mexican Consul with jurisdiction in the place of employment from which transfer is under consideration.

"13. No deductions of any kind shall be made from the wages of the workers except those specifically provided in the individual contract or required by law.

"14. The Mexican workers will be furnished, without cost to them, with hygienic lodgings, adequate to the physical condition of the area and of a type used by the domestic agricultural workers of the area.

"15. Workers admitted under this understanding shall enjoy as regards occupational diseases and accidents the same guarantees enjoyed by domestic agricultural workers under applicable state or federal legislation in the United States. The employer shall provide medicines and medical attention, in accordance with prevailing laws, customs or practices, or, in the absence of such, in accordance with equitable and just principles. When the employer provides medical attention to the worker because of acts of negligence of a third person, the employer shall be subrogated in the right of the worker to recover the cost of such medical care.

"16. Groups of workers admitted under this agreement shall have the right to elect their own representatives, from among the members of the group, to maintain contact between the workers and the employers.

"17. The United States Employment Service of the United States Department of Labor shall lend its good offices to the contracting parties with a view to obtaining full compliance with the terms of this agreement and the individual contract. The worker may request these good offices direct or through the Mexican Consul having jurisdiction in the place of employment.

"18. The Mexican Consuls or their duly accredited representatives, within their corresponding jurisdiction, in cooperation with the representatives of the United States Employment Service or the Immigration and Naturalization Service, will take all possible measures of protection in the interest of the Mexican workers in all questions affecting them, and the employer will grant such officials access to the place of employment when it is necessary not only for the protection of the worker but also for the maintenance of good relations between the employer and the worker.

"19. The Government of Mexico reiterates its intention to limit the contracting of workers to two periods of six months (one year) in order that the workers may not lose their ties with their homeland. However, it manifests its agreement that ten per cent of workers experienced in agricultural work may be recontracted for an additional period of six months in order that they may cooperate in the training of new contingents which enter the United States under the present agreement.

"20. Permission to contract workers will not be granted to those employers who use workers illegally in the United States.

"21. With a view to impeding the migration to the United States of workers who have their permanent residence in Border towns, it is suggested to the delegation of the United States that those who are in this category be documented by the Mexican migration authorities only with Card Form 5-C, which only gives them the right to cross to the adjacent towns and not to be contracted for work in the interior of the United States. Therefore all such who are clearly shown to be legal residents of Border towns should be excluded from contracts.

"22. The delegation of the United States will recommend to its Government the continuance of present instructions to its diplomatic and consular representatives in Mexico, with a view to having them abstain, as they have done to date, from documenting as permanent residents of the United States, persons whose passports do not categorically so specify, with the exception of those who have family ties in that country.

"23. When there arises a case of violation by the employer of the Individual Work Agreement or of the conditions under which authority for the admission of the workers to the United States has been issued, or there has been a violation by the worker of the conditions under which he was admitted, the United States Immigration and Naturalization Service will withdraw said authority or will cause the removal of the worker or workers involved, as the case may be, after the measures specified in the Individual Work Agreement have been completed.

"24. The United States Delegation declares that in view of the existing situation that does not permit the representative of the United States Department of Labor to fix a minimum weekly wage rate, because of lack of statutory authority, said Department will use its good offices in order that the Mexican workers may obtain maximum employment and wage rates. However, information in regard to salary and working conditions is to be circulated among the workers in the contracting centers, in the manner specified in the final paragraph of Article 3 of this agreement with a view that the workers themselves may be in a position to decline employment offered if the contracting conditions and wage rates do not appear to be to their interests.

"25. With a view to establishing savings funds, the employer shall withhold currently from the wages of the worker ten per cent of the wages due him and in regular pay days shall furnish him a signed acknowledgement in writing, typewritten or in ink, of the amount which has been withheld during the pay period. All wages so withheld are to be paid the worker upon termination of the contract in a certified or cashier's bank check to his order which must bear the stamp of the United States Immigration and Naturalization Service which shall be affixed at the time the worker crosses the international border into Mexico; such check shall be in dollars and in a form negotiable through any bank in Mexico once it has been endorsed as indicated.

"26. Article IX of the Consular Convention between the United States of America and the United Mexican States, formalized between the two Gov-

ernments on August 12, 1942,⁵ shall apply in regard to Mexican workers in the case of all rights established therein.

"27. The Mexican Government reserves the right to require a change of status of any Mexican workers involved, after a study of the circumstances in case labor questions arise.

"28. Renewal of existing contracts may be made within the terms of this agreement on the conditions that all workers whose contracts are so renewed will retain their right to be returned to their place of contracting in Mexico.

"29. With a view to cooperation in the objective of this agreement the appropriate authorities of both Governments shall take all proper measures to prevent the illegal migration of Mexican agricultural workers to the United States and to insure the prompt repatriation of Mexican workers illegally in the United States.

"30. Both delegations will recommend to their respective Governments the greatest publicity for these measures and their underlying reasons, in order that the authorities charged with their application can count upon the fullest support of public opinion in both countries, this publicity to be made simultaneously and on a date to be agreed upon by both Chanceries.

"31. The presence in United States territory of workers who fail to return to Mexico after the period for which they are contracted or recontracted shall be considered illegal.

"32. The worker shall enjoy absolute liberty to purchase articles for his personal use in the place most convenient to him.

"33. The employer guarantees the worker the opportunity for employment for three quarters of the work days of the total period during which the Individual Work Agreement is, in fact, in effect. If the employer affords the worker, during such period, less employment than required under this provision, the worker shall be entitled to be paid the amount which he would have earned had he, in fact, worked for the guaranteed number of days.

"In determining whether the guarantee of employment provided for in this paragraph has been met, any day on which the worker fails to work, when afforded the opportunity to do so by the Employer, shall be counted as a day of employment in calculating the days of employment toward the satisfaction of this guarantee.

"For each work-day (except Sundays) on which the worker is willing to work and is physically able to carry on his work, and he is not employed for more than four hours, he will receive subsistence without cost to him. Said subsistence shall consist of three meals a day or their equivalent in cash.

"34. The officials of the United States Immigration and Labor Services

⁵ TS 985, *ante*, p. 1082.

shall not aid in the contracting of workers who are accompanied by their families.

"35. The proper authorities of the Government of the United States, in representation of the employers, are empowered, in cooperation with the Mexican authorities, to formulate the instructions necessary to facilitate both the sojourn of workers in the United States as well as the best interpretation of the several clauses of the labor contract.

"The agreement set forth herein shall become effective through an exchange of notes between the two Governments, and shall supersede the agreements of April 26, 1943,⁶ and of March 10, 1947,⁷ on this subject, except in the case of workers now in the United States who, if recontracted, will be protected by said agreement in regard to transportation, lodging, and subsistence from place of employment to the place of original contracting. It shall continue in force until modified by mutual agreement or terminated by written notification of either Government, which shall become effective thirty days after the receipt of such notes.

"36. The recontracting of Mexican laborers now in the United States will be effected immediately after this agreement is approved by both Governments. The first regular contracting within the Republic of Mexico will be effected one month after the exchange of notes and subsequent contracting in accordance with the provisions of Article 8 thereof.

"By reason of the absence of the members of the United States and Mexican delegations who participated in the conversations at El Paso, Texas, and who are mentioned at the beginning of this document, the representatives intervening in the final revision, after reaching an agreement on each one of the articles thereof, signed the same at Mexico City on the 17th day of February, 1948."

"For the United States Delegation

MAURICE L. STAFFORD

*First Secretary of the Em-
bassy of the United
States of America.*

For the Mexican Delegation

ALFONSO GUERRA

*Official Mayor of the Min-
istry for Foreign Rela-
tions."*

I am instructed to state that the Government of the United States is in accord with and accepts the agreement entered into by representatives of the two Governments on February 17, 1948 as cited above.

⁶ EAS 351, *ante*, p. 1129.

⁷ TIAS 1857, *ante*, p. 1219.

If this agreement is acceptable to the Government of Mexico, the Government of the United States of America is prepared to regard the present note and Your Excellency's reply concurring therein as constituting an agreement between the two Governments which shall take effect on the date of Your Excellency's reply.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest and most distinguished consideration.

RAYMOND H. GEIST
Chargé d'Affaires ad interim

His Excellency

Señor Don JAIME TORRES BODET
Secretary for Foreign Relations
Mexico, D.F.

*The Secretary of Foreign Affairs to the American Chargé d'Affaires
ad interim*

[TRANSLATION]

MINISTRY OF FOREIGN RELATIONS
UNITED STATES OF MEXICO
MEXICO

No. 3377

MEXICO, D.F., *February 21, 1948*

MR. CHARGÉ D'AFFAIRES:

I have the pleasure of referring to your courteous note No. 1776 dated yesterday, which reads word for word as follows:

[For text of U.S. note, see above.]

In reply I have the pleasure of informing you that the Government of the United Mexican States accepts the terms of the document quoted above, which it finds in conformity with the basic agreement signed in this capital on February 17, 1948 by the delegations of Mexico and the United States of America, with the understanding that, as I stated in my note number 34425 of November 13, 1947 to His Excellency Ambassador Walter Thurston, authorization will not be given to engage Mexican workers for states in the United States of America where discriminatory acts are known to have been committed against Mexicans or persons of Mexican origin.

In view of the principles of mutual cooperation that govern the relations between the peoples of our two countries and with due regard for the fact that the services rendered by our workers will help to increase agricultural production in the United States, the Department of Foreign Relations hopes that the agreement concluded on this date will serve as an antecedent for

Mexico to continue to acquire, with the help and support of the competent authorities of the United States Government, the foodstuffs needed by Mexico to supplement her current agricultural production.

It gives me pleasure to renew to you, Sir, the assurances of my highest consideration.

JAIME TORRES BODET

Mr. RAYMOND H. GEIST,
Chargé d'Affaires ad interim
of the United States of America,
City.